

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO

3 ADVANCED CELLULAR SYSTEMS,
4 CORP.,

5
6 Plaintiff,

7 v.

8 PUERTO RICO TELEPHONE COMPANY;
9 CELULARES TELEFÓNICA,

10 Defendants.
11

Civil No. 97-2511 (JAF)

12 **OPINION AND ORDER**

13 This case began almost ten years ago on October 14, 1997, when
14 Plaintiff Advanced Cellular Systems ("ACS") filed a complaint
15 against Defendant Puerto Rico Telephone and its subsidiary,
16 Celulares Telefónica ("PRT"). Docket Document No. 1. Plaintiff
17 removed the case to the United States Bankruptcy Court on
18 November 6, 1998; the district court accordingly entered an order
19 and judgment closing the case on the same date. Docket Document
20 No. 38. Eight years later, on December 21, 2006, Plaintiff filed
21 a motion seeking leave to amend its original complaint. Docket
22 Document No. 43-1. Defendants opposed the motion, arguing that
23 Plaintiff's motion to reopen the case is untimely. Docket Document
24 No. 44-1.

25 **I.**

26 **Factual and Procedural History**

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1 We derive the following facts from the parties' filings.
2 Docket Document Nos. 41, 43-1, 43-2, 44-1, 47, 52-1, 55, 56-2, 57-
3 2, 60, 62-1, 63.

4 Plaintiff and Defendants entered into a business relationship
5 in 1986, whereby ACS purchased cellular services and numbers from
6 PRT at wholesale prices for resale to consumers at retail prices.

7 On October 14, 1997, Plaintiff brought a complaint against
8 Defendants in district court alleging antitrust violations. Docket
9 Document No. 1. Defendants brought a counterclaim against
10 Plaintiff seeking to collect money for alleged outstanding debts,
11 and terminated their relationship in April 1998.

12 Plaintiff then filed a bankruptcy petition and removed the
13 case to bankruptcy court on November 6, 1998. Docket Document
14 No. 38. Due to the removal, the district court closed the case on
15 that date. Id. Defendants filed a proof of claim in the
16 bankruptcy case for \$1,655,391.96. The bankruptcy court
17 subsequently remanded some of Plaintiff's claims, including the
18 allegations of antitrust violations, to the district court on or
19 around November 11, 1998. Plaintiff appealed the remand and the
20 district court, presided over by the Honorable Jaime Pieras, Jr.,
21 affirmed the bankruptcy court's decision on March 29, 2000. Docket
22 Document No. 52-4.

23 The present case remained inactive until December 21, 2006,
24 when Plaintiff moved for leave to amend its 1997 complaint. Docket

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1 Document No. 43-1. On January 3, 2007, Defendants opposed
2 Plaintiff's motion to reopen the case. Docket Document No. 44-1.
3 Plaintiff replied on January 23, 2007. Docket Document No. 47.
4 Defendant submitted a memorandum of law in support of its
5 opposition on February 14, 2007. Docket Document No. 52-1.
6 Plaintiff replied on March 5, 2007. Docket Document No. 55.
7 Defendant sur-replied on March 22, 2007. Docket Document No. 60.
8 Plaintiff sur-sur-replied on March 26, 2007. Docket Document
9 No. 62-1.

10 II.

11 Analysis

12 We agree with Defendant that Plaintiff's attempt to re-open
13 this case through its motion seeking leave to file an amended
14 complaint, Docket Document No. 43, is untimely.

15 The statute of limitations for actions alleging antitrust
16 violations is four years. 15 U.S.C. § 15(b) (2007). The events
17 that are the subject of this litigation took place between 1986 and
18 1997, a period ending ten years ago.

19 Plaintiff seeks to attribute the failure of this case to
20 remain open after the remand from bankruptcy court in March 2000 to
21 a clerical error, asserting that the "case became wedged between
22 the office of the clerk of the bankruptcy court and the office of
23 the clerk" of the district court. Id. Plaintiff's arguments
24 notwithstanding, even if a clerical error did account for the

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1 failure of the case to remain technically open in district court,
2 Plaintiff did not take any steps to pursue its antitrust claims for
3 the past six and a half years. Plaintiff's attempts to renew its
4 claims now are, therefore, untimely.

5 **III.**

6 **Conclusion**

7 In accordance with the foregoing, we **DENY** Plaintiff's request
8 to amend its complaint. Case remains closed.

9 **IT IS SO ORDERED.**

10 San Juan, Puerto Rico, this 18th day of April, 2007.

11 S/José Antonio Fusté
12 JOSE ANTONIO FUSTE
13 Chief U.S. District Judge